

# Staff Congress: At-A-Glance

September 12, 2016

## Chair Report: Dr. Scott Niles

Chair Niles informed Staff Congress members that the Staff Congress Executive Council has been invited to meet with the search firm hired to conduct MSU's Presidential search on Sept. 20. All Representatives are encouraged to reach out to their constituents to determine what characteristics employees feel would be important in MSU's next leader. Please submit any responses to Chair Niles, Vice-Chair Purnell, or Secretary Thompson no later than the close of business on Sept. 19.

## Vice-Chair Report: Clarissa Purnell

**Vice-Chair Purnell** indicated that the portal is up to date. Staff Congress also received Staff Profile information for Rhonda Sloan, College Access Counselor. Rhonda's Staff Profile is available in its entirety on the Staff Congress webpage.

## Staff Salutes

Shout out to the **staff** that volunteered to help with traffic patterns, directional advice and answering questions during the move in process.

A special nomination to **Margaret LaFontaine** and **Melisa Patrick** for organizing the staff and faculty volunteers to help the move in process go smoothly!

And to **Erica Williams** for her work organizing and overseeing over **600 student volunteers** to help with the move in process for new students. Student volunteers are a critical key to the success of a smooth move in process. Erica went above and beyond which is especially amazing since she has only worked at MSU for about 8 months and has never seen the process in action. She did an amazing job!

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# Committee Reports

## ***Benefits & Compensation: Committee Chair Krista Utterback***

\* **Committee Chair Utterback** was unable to attend and no report was submitted.

## ***Credentials & Elections: Committee Chair Lora Pace***

\* **Committee Chair Pace** informed the group that Representative Misty Lilley has resigned from Staff Congress. There is an opening in Area 5 that Staff Congress would like to fill. Nominations for the Area 5 seat should be submitted to a member of the Credentials and Elections committee.

The Credentials and Elections Committee has decided to fill open positions on University Standing Committees with interested members of Staff Congress. Chair Pace sent all members email containing open positions, and would like for Representatives to respond by ranking their top three choices. Responses will be gathered and brought before Staff Congress in the October 3<sup>rd</sup> meeting for a vote to fill open University Standing Committee positions.

## ***Staff Issues: Committee Chair Jill McBride***

\* **Committee Chair McBride** provided the following staff concerns that were submitted since the August 2016 meeting:

### **CONCERN (submitted 7/27/2016)**

After an employee leaves the university, how long do they have access to their health reimbursement account? I thought you had a year to use it but another employee told me that the account is closed at the end of the month you leave. What's the policy? Thank you.

### **RESPONSE via Harold Nally, Director of Human Resources via email 7/28/2016**

Departing employees who leave employment on or after January 1st, 2016 forfeit the balance of their HRA account upon separation. Departed employees will have until the end of the month of their termination to spend the remaining balance in their HRA account. For example: If a departing employee leaves on May 18, that person would have until May 31 to use those funds.

For Flexible Spending Accounts (FSA) eligibility ceases on the date of termination. This would mean a departed employee cannot incur any new expenses after the date of their separation. However, former employees will have until March 31<sup>st</sup> of the following year to file any claims for expenses they incurred while they were employed.

### **CONCERN (submitted 8/3/2016)**

How much did the erroneous directional signs cost? How much was paid to a "consulting firm" for this plan? The signs are too big and detract from the beauty of our campus. Just another mistake in a long line of mistakes.

### **RESPONSE from Richard Linio, Assistant Vice President, Office of Facilities Management via email 8/19/16**

The following is our response: Facilities has a recurring Campus Sign budget which was used to purchase the temporary signs. Total cost was less than \$5,000. No, our Wayfinding Consultants were not involved. Yes the signs had a few MINOR inaccuracies, which were corrected within two days.

**Follow-up by Jami Hornbuckle on 9/9/16 via email:**

Communications and Marketing did coordinate with Facilities on the design of the signs. We did not consult with the wayfinding firm, as Rick indicated; however, we followed the design standards laid out in the plan provided by the wayfinding firm for the long-term plan. Based on this, there was no additional cost for consulting (if I am reading the question correctly). The signs installed are only short-term, to be used during ADUC renovation and campus construction. It is my understanding permanent signage, as proposed in the wayfinding plan, will be forthcoming at a later date once funding can be established. The new (permanent) signage will not be as large as the temporary signage. I hope this provides some clarification.

**CONCERN (submitted 8/15/2016)**

I received my staff congress newsletter from [my representative] on August 10th. However, while reading it I realized that there were PDs that I would have liked to have attended on the 9th. Is there a way to ensure that we get the newsletter in a timely manner.

**RESPONSE from Chair Scott Niles via email 8/15/2016**

Dear constituent--On behalf of Staff Congress, we sincerely apologize that the newsletter did not arrive in your inbox in time to take advantage of professional development opportunities. Going forward, we will impress upon our congress members the importance of disseminating the monthly newsletter to constituents as soon as possible once it is ready.

Alternatively, you can check the Staff Congress portal

(<https://my.moreheadstate.edu/EmployeeServices/StaffCongress/Newsletter/Forms/AllItems.aspx>) for the newsletter, as it is posted there immediately after it has been sent to congress for dissemination. This will ensure you are able to review it as soon as it is ready.

**CONCERN (submitted 8/15/2016)**

I think HR needs to reevaluate this policy they have enacted that all staff in the same pay grade will have the same status. There are staff on this campus that are able to fall into the exempt status based on their pay, but because of this HR policy they are being moved to non-exempt. This has strong implications for those programs that work outside the normal business hours of 8-4:30 and have to have staff go into overtime. HR's attempt to make things easier on themselves is going to cause a lot of departments and programs on this campus to go over budget and compromise the services they offer because they are unable to pay overtime.

**RESPONSE from Harold Nally, HR Director during the September Staff Congress meeting:**

Mr. Nally indicated that it was going to be the supervisor's responsibility to help employees figure out work schedules which could include flex time or the use of equivalent time. Most employees are on a 37.5 hour work week. Equivalent time is the 2.5 hours employees may work to reach a 40 hour work week. Equivalent time may be used as flex time or can be paid out to employees but must be cleared by the end of the physical year. Overtime is any time worked over 40 hours in a week. The work week starts on Sunday and ends on Saturday.

**CONCERN (submitted 8/15/2016)**

I'm very concerned about the issue of staff who will go from Exempt to Non-Exempt status beginning October 1. I realize that many of my issues may be issues for the larger University community – as well as colleges/universities across the country. My concerns:

1. This will be a significant financial burden for staff since they will receive their final exempt paycheck on 9/30 and not receive another paycheck until their first non-exempt paycheck on 10/30. This is even more impactful for couples both of whom are employed by MSU and both of whom will go from exempt to non-exempt. What procedures are being planned to assist staff with this situation?

2. What procedures are in place to make appropriate adjustments to budgets to reflect the need for overtime pay for some employees in order to continue to implement programs/services?
3. It is my understanding that HR has decided to make arbitrary decisions about employees in certain pay grades – regardless of salary/programmatic issues. For example, all employees in grade 525 and below will be non-exempt in order to make this “easier” for HR/Payroll, while grades of 550 and higher will be either exempt (or a combination of exempt and non-exempt). In the 2015-2016 compensation scale, pay grades of 475 – 575 included both exempt and non-exempt individuals/salaries. Why is this not being continued for 2016-2017?

I look forward to hearing discussion and perhaps clarification of the process. Thank you.

**RESPONSE:**

The information answering these concerns was covered in the Employee Forum conducted by Human Resources and Payroll. There is also a FAQs page located within the Portal. To access the FAQs page,

\*Click on Employee Services tab

\*Choose HR & Payroll tab

\*Click on the Benefits and Compensation tab

\*Click on the Fair Labor Standards Act FAQs. (The FAQs sheet has been added at the end of this newsletter for your convenience.)

The supervisor training is also available through the Portal. It may be accessed by from the Benefits and Compensation tab in the Portal by clicking on FLSA Supervisor Training. The employee training was similar, but the supervisor training has a few more slides for review.

**CONCERN (submitted 8/15/2016)**

Why is Morehead State University self insured when this option is not beneficial to employees any longer?

**RESPONSE from Harold Nally, Director Human Resources, via email 8/26/2016**

Thank you for your email. First I want point out that MSU’s current health insurance plan is a fully insured plan and not self-insured. As modifications have been made to the plans and costs have risen regarding MSU’s health insurance over recent years, it is important that we are diligent in our efforts to study various options. We are working to stabilize our health insurance costs while still offering the maximum benefits and options for employees. Yes, we are studying to see if there are compelling and feasible reasons to go self-insured. It needs to be clear to employees that no decision has been made to remain fully insured or go to a self-insured health insurance plan.

**CONCERN (submitted 8/15/2016)**

In a meeting today we were informed of changes to meals while traveling. However, I would like to if inflation will be taken into consideration when making new changes to our travel manual. For example, a high area dinner has been \$19 for at least 12 years that I know of but anytime I go to a conference in an area that is considered a high area dinner may be \$30. You can't get breakfast or lunch for under \$10 anywhere.

**RESPONSE from Beth Patrick, Chief Financial Officer and VP for Administration, via email 8/25/2016**

We are in the process of reviewing the state and federal meal reimbursement rates as well as policies followed by other universities and will recommend changes in our reimbursement policy if warranted. Follow-up via email on 9/9/2016 from Beth Patrick:

My goal -- assuming no unforeseen complications -- is to complete the research and review so we can work through internal approval of any potential changes in time to present the policy to the board at their

quarterly meeting in December. We do not have time to have the work completed before the quarterly Board meeting this month.

**CONCERN (submitted 8/17/2016)**

Let me begin by saying I am grateful for the Tuition Waiver program. I understand that it is offered by all of Kentucky's state colleges and universities in varying forms to employees (per CPE), and I am one MSU Employee who takes advantage of this benefit.

My concern, not just for myself, but ALL students attending MSU, is the addition of fees without advance communication from the institution regarding the fees. I'm more than willing to pay said fee, however, it would have been good business & customer service on the part of the University to let us know the fees were being assessed. As someone taking advantage of the Tuition Waiver - thanks to the furlough, many of us are on even tighter budgets and still feeling the affects of its impact. Every dollar is accounted for and budgeted, so to find a "surprise" fee assessed for each course that had to be paid prior to Protecting My Class Schedule added to the burden. I take classes not for fun, but to support my work here at MSU and further my career. I am asking for communication, that's all. This is not the only concern, but an example of where communication with stakeholders is needed. I have a colleague whose child attends MSU, and two years ago, despite doing all that was asked (including attending the Transfer Student Orientation and filling out appropriate forms), was assessed a Housing fee and Meal Plan charge when they should not have been. The process to reverse those fees was burdensome and communication on the part of MSU was insufficient. My observation and concern are that instances such as these are factors in student retention just as much as whether or not they like the food, are engaged in Student Life, or receive sufficient advising or assistance. These are direct contacts not only with the students, but also with their families and lend just as much weight in their decision to attend or return to MSU.

**RESPONSE from Beth Patrick, Chief Financial Officer and VP for Administration, via email 8/18/16**

All tuition and mandatory fees are developed in the spring semester and taken to the MSU Board of Regents for public discussion at the May workshop and then final approval in at their regular quarterly meeting in June. Reports of actions taken by the MSU Board including updates to the tuition and fee schedule are covered in print media, online, video broadcast and radio news updates. The new fee structure for the upcoming academic year which takes effect in the following fall semester are published immediately following the Board approval on the MSU web site and printed materials. That fee structure includes all changes in tuition and mandatory fee rates, individual course fees, housing, meal and parking fees and and any other changes in what students will pay.

**CONCERN (submitted 8/18/2016)**

I work every day to encourage our students to take ownership and responsibility of their lives, choices, and future goals. Federal regulations prevent us from sharing many details of student records with a student's Parents, as I'm sure most of the campus community understands. In the event that parents are present in a meeting, I still try to make it a priority to specifically encourage and guide my instructions and advice directly to students. My intention is to help our students to understand that we are discussing issues and choices that affect THEM personally and THEIR lives as informed responsible adults (not their parents). It was beyond troubling (hopefully for obvious reasons) to leave my office for my lunch break on 8-18-16 to see an inflatable kingdom set up on the middle of campus. Are there any screening measures in place for these events or promotions to help prevent the further juvenilization of our student body? After seeing this today, I'm finding it very difficult to take my work seriously- and wondering if I should be revising my approach/expectations.



**RESPONSE from Max Ammons, Dean of Students, via email 8/18/16**

The inflatables set up in the lawn are a promotional event planned by the Student Programming Board to promote and build excitement for Paint U, which occurs Friday night. These events are planned for students by students, and students maintain creative direction for the programs. In short, the students themselves decided that this would be fun; then they planned, coordinated and operated the event. The intent of this and other events, led by the Student Programming Board, is to actively engage students in activities that create opportunities for engagement and community building.

I'm grateful that we have resourceful students who will invest their time and effort to engage other students on campus; especially when we have over a 1000 new students on campus navigating a new environment. The more our students connect to each other, and the university, the more likely they are to persist to graduation.

**CONCERN (submitted 8/18/2016)**

Is it possible for the buses on campus to adjust their schedules to allow a few extra minutes in their route and take students to the Kentucky Folk Art Center and The Kentucky Center for Traditional Music (KCTM) on First Street? Both buildings are MSU staffed and those who are student workers or have classes in KCTM and drive are having to park in overflow, catch a bus as close as Lappin Hall or are walking from their dorms to the Centers and still running to make it to class on time. Thanks for taking time to look at this issue.

**RESPONSE from Jeremiah Gallegos, Director of Campus Services, via email 08/31/16**

Currently the MSU bus route does not include KTCM or Folk Art Center because making stops in those locations could potentially be a safety hazard as there is not a good location to pick up/drop off passengers. There is also a potential impact to increased traffic should there be a bus stop at these locations. MSU would need to get city approval before trying to add bus stops to those locations. As MSU grows facilities management will continue to evaluate the bus route to try and better serve MSU's students, faculty, and staff. Hopefully in the future MSU can find a safe location to try and pick-up/drop off the MSU community closer to those locations.

**CONCERN (submitted 8/26/2016) by Clarissa Purnell**

I am submitting a concern regarding the change in Policy PG-63. I have received several inquiries from staff in my area wanting to know if the changes to the Employee Furloughs (PG-63) language (see below) means we will be furloughed over the Christmas break in December for which we are usually off with pay. Days that the University is normally closed or days that may not normally be work days for certain groups of employees (i.e. Spring Break and winter break and holidays) may be designated as furlough days  
Thanks!Clarissa

**RESPONSE from Harold Nally, Director of Human Resources via email 8/26/16**

Regarding your inquiries related to the changes to Policy PG-63. There have been no discussions about furloughing employees over Christmas break.

**CONCERN (submitted 8/26/2016)**

My concern is regarding the salaried positions making less than \$47,000 a year having to go hourly. Why are we the only university local doing this? I have checked with other universities and no other university is enforcing this rule? The IRS rule doesn't state if you are salaried and making less than \$47,000 you must go to hourly. It states that if you are salary and make less than \$47,000 and work more than 40 hours a week the employee is entitled to overtime pay. MSU employees are 37.5 a week employees. The change from salary to hourly will impact paychecks and benefits. I think someone misinterpreted the rule and does not have a clear understanding of it's full definition. The rule's intent is below:

Raise the salary threshold indicating eligibility from \$455/week to \$913 (\$47,476 per year), ensuring protections to 4.2 million workers.

Automatically update the salary threshold every three years, based on wage growth over time, increasing predictability;

Strengthen overtime protections for salaried workers already entitled to overtime; & Provide greater clarity for workers and employers. Further, it states Higher education may choose options but does not mention they can change employees from salary to hourly. See options below:

Raise the salary threshold indicating eligibility from \$455/week to \$913 (\$47,476 per year), ensuring protections to 4.2 million workers.

Automatically update the salary threshold every three years, based on wage growth over time, increasing predictability.

Strengthen overtime protections for salaried workers already entitled to overtime.

Provide greater clarity for workers and employers.

The rule's intent was help over-worked salaried employees not have employers reclassify their salaried employees. Is the reclassifying salaried to hourly legal because it doesn't appear to be from my standpoint? See below links for further proof.

<https://www.dol.gov/sites/default/files/overtime-highereducation2.pdf>

<https://www.dol.gov/whd/overtime/final2016/highered-guidance.pdf>

### **RESPONSE:**

The information answering these concerns was covered in the Employee Forum conducted by Human Resources and Payroll. There is also a FAQs page located within the Portal. To access the FAQs page,

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### **CONCERN (submitted 8/26/2016, 8/29/2016)**

I've heard a rumor that the parking lot on the hill behind the Library will be closed to employees in the near future and converted to a student lot. Could someone please confirm or deny this? If this IS true and the lot will be converted to student parking, will there be any on-campus parking left for employees? Thank you.

A recent Trail Blazer article stated that the entire parking lot behind the library would be converted to student parking next fall. Is this correct? It seems that this would create a deficit for employee parking.

### **RESPONSE from Joe Stiltner, Administrative Support Supervisor, MSUPD, via email 8/26/16**

The All Zones lot (Area 23) on the hill behind Ginger will be converted to student parking. The Employee lot (Area 14) will remain Employee parking. This change shouldn't affect employees as they can still park in designated student areas with an E permit. Feel free to give me a call with any questions or if you would like to discuss further.

**CONCERN (submitted 8/29/2016)**

There have been rumors off and on for a few years now about the University Farm Staff housing being replaced. I know things may have been put on hold for reasons due to the budget cut. My concern is the poor quality of the housing with not only staff, but also their families (young children) living in them. Is there any update on this that anyone can talk about? It seems like the farm and the people it concerns are the last to hear about what the plans are.

**RESPONSE from Beth Patrick, Chief Financial Officer and VP for Administration, via email 8/29/16**

The Farm Manager, Joe Fraley, has been kept informed of the project status which has not changed. The project which includes replacement of the staff housing at the farm has not been delayed and is still on target for completion.

**CONCERN (submitted 8/30/2016)**

My concern is regarding the salaried positions making less than \$47,000 going to hourly. This impacts our paychecks. I'm wondering if the new overtime wage law was misinterpreted. The new overtime law was created to ensure anyone working more than 40 hours a week was getting paid overtime not to change salary grades. I'm not even sure what MSU has planned is legal according to the federal guideline. The new law states that employers can pay time and a half for overtime; raise workers' salaries above the new threshold; limit workers' hours to 40 per week; or some combination of the above. It does not state your employer can change you from salaried to hourly. See below links.

<https://www.dol.gov/whd/overtime/final2016/highered-guidance.pdf>

<https://www.dol.gov/sites/default/files/overtime-highereducation2.pdf>

<https://www.dol.gov/featured/overtime>

**RESPONSE:**

The information answering these concerns was covered in the Employee Forum conducted by Human Resources and Payroll. There is also a FAQs page located within the Portal. To access the FAQs page,

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*NOTE: All submitted Staff Concerns may be seen in their entirety, along with the corresponding response, on the Staff Congress Portal site. Login to the Portal site, go to Employee Services, select Staff Congress, and then choose the Past Staff Concerns button. There will be a listing by month and year of the Staff Concerns from which you may choose to review.*

**Sustainability Committee**

\* **Representative Niehoff** shared that October 23-29 is Sustainability Week. Please watch for informational posters across campus and information is available on the Earthwise Eagles website.



## Other Reports

### ***Staff Regent Report: Shannon Harr***

**Staff Regent Harr** indicated that the Board of Regents (BOR) held a work session at the end of August. A Reconciliation Committee, composed of members of Faculty Senate and the BOR, will meet one time to attempt to come to an agreement on PAC-26, which is scheduled for a BOR vote at the September meeting.

Staff Regent Harr reminded Staff Congress that he can take written concerns to President Andrews and/or the BOR on our behalf. Employees are also reminded to follow additional pertinent information regarding the Presidential search, by visiting <http://www.moreheadstate.edu/presidentialsearch/>.

### ***Human Resources Report: Harold Nally, Director of Human Resources; Suzanne Hogge, Associate Director Compensation & Benefits***

**Director Nally** and **Assoc. Director Hogge** were invited to address Staff Congress regarding the new Fair Labor Standards Act (FLSA) changes and how it would affect MSU employees. Director Nally stated that all 165 affected employees have been notified that they will be moved from exempt to non-exempt status. Human Resources has worked with supervisors of these employees to let them know how the exempt to non-exempt status would change the employee's availability to work. The HR supervisor presentation can be found at <https://my.moreheadstate.edu/EmployeeServices/HR-Payroll/Documents/FLSA%20Overtime%20Exemptions.pdf>.

When asked if departments currently have a budget for paying overtime, Director Nally responded that the majority of departments do not have money set aside for this. However, departments will be able to move money within their existing budget lines to cover overtime if necessary.

Director Nally said that although the regulation does not have to be implemented until December 1, MSU made the decision to make the change-over effective October 1 for two main reasons; to avoid the benefits open enrollment period which typically runs November through December, and so employees affected by the change would not "miss" a paycheck so close to the holiday season.

Affected employees will be offered an OPTIONAL \$1,000 to bridge the gap experienced by the missed payroll on October 15 to take them to arrears pay resulting from their new non-exempt status. All MSU deductions (ex. health insurance, parking decal, etc.) from the missed check will be prorated and spread out among pay periods through December 2016. Employees electing to take the \$1,000 will pay the advance beginning January 2017 in the amount of \$83.33 per pay check through June 30, 2017. Director Nally noted that MSU is one of only two schools in Kentucky who opted to provide a financial advance (\$1,000 in the case of MSU) to employees.

Employees changing from exempt to non-exempt will not see a change in any fringe benefits, including their retirement account designation. Payroll is willing to work with employees who wish to repay the \$1,000 early.

Associate Director Hogge stated that insurance proposals were received from two companies, Humana and Anthem. Human Resources will work with the Sibson consulting firm to choose the company and plan that best suits the needs of MSU employees. Director Nally added that Sibson would be back on campus before the open enrollment period begins to meet with the Benefits and Compensation committee.

The Office of Human Resources hopes to have all insurance related materials (ex. new insurance cards, HRA cards, etc.) ready for employees prior to the winter break to avoid the frustration of cards not working as experienced by some employees in prior years.

### **Cabinet Report: Beth Patrick**

**VP Patrick** was not present and no report was submitted.

#### **OLD BUSINESS:**

Representative Louise Cooper has accepted the position as our Professional Development Liaison with the Office of Human Resources and Dr. Janet McCoy, Director for the Center for Leadership & Professional Development. Representative Cooper will keep Staff Congress members, and our constituents, informed of upcoming professional development opportunities.

#### **NEW BUSINESS:**

No new business to report.

#### **STAFF CONGRESS OPEN DISCUSSION:**

- Members have voiced concern over an increasing lack of shared governance across campus. Decisions are being made that affect employees without input from the university committees designed to represent them.
- Historically a Cabinet member would attend Staff Congress meetings to provide and updates on university matters. Beth Patrick, Vice President for Administration and Fiscal Services, is our appointed administrative liaison. Although invited monthly, Ms. Patrick has been absent 27 of the 42 Staff Congress meetings since January 2013 as evidenced in the chart below.

	Present	Absent
2013	8	4
2014	5	7
2015	2	10
2016	0	6

- Dr. Janet McCoy contacted Chair Niles to see if Staff Congress would be interested in co-presenting a viewing of “Starving the Beast” with Faculty Senate. The film examines the on-going struggles on college campuses across the nation. Staff Congress would like to view the film first before a decision is made to co-sponsor with Faculty Senate.

## UPCOMING EAGLE EVENTS

- Wednesday, September 7: MSU Art and Design Faculty Exhibition opens in the main gallery in Claypool-Young from 5-7 p.m. Exhibition runs through Sept. 30.
- Monday, October 3: Next STAFF CONGRESS meeting Combs Building 413 1:00 p.m.

### **CAMPUS ANNOUNCEMENTS**

- MSU is currently 6<sup>th</sup> in the Outdoor Nation Campus Challenge. Students and employees are encouraged to join the MSU team at [www.onscampuschallenge.org](http://www.onscampuschallenge.org), download the app, and get outdoors! Additional information is available online or by contacting Jason Hilton in the Rec & Wellness Outdoor Adventures office. (Prizes available)
- Staff/Faculty are encouraged to participate in intramurals by joining an existing team or starting a new team.
- Don't forget to check [www.msueagles.com](http://www.msueagles.com) for upcoming MSU athletic events.
- Cotinine testing is going on now in Counseling & Health Services! Please don't wait until the last minute to schedule your test. Call 3-2123 to schedule your appointment today!

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CONCERN



## **Fair Labor Standards Act (FLSA) Frequently Asked Questions**

### **Q. What is the Fair Labor Standards Act (FLSA)?**

A. The Fair Labor Standards Act (FLSA) is the federal wage and hour law administered by the U.S. Department of Labor (DOL). The purpose of the FLSA is to establish minimum wage, overtime pay, recordkeeping, and youth employment standards affecting most full-time and part-time workers. Employees are either “exempt” or “non-exempt” from the FLSA regulations. This designation indicates eligibility for overtime pay when overtime is worked. The FLSA requires employers to pay their employees overtime (one and one-half times the employee’s regular rate of pay) for all hours worked over 40 in a workweek unless they meet a minimum salary requirement and their job duties meet specific criteria to be “exempt” from overtime as defined in the regulations.

### **Q. What does it mean to be exempt or non-exempt?**

A. Exempt employees are excluded from the overtime requirements. Non-exempt employees are paid overtime for time worked in excess of 40 hours in any workweek and are paid an hourly rate. For an employee to be classified as exempt, he/she must meet the following three tests:

**Salary Basis Test:** An employee must receive a predetermined, fixed salary that is not subject to reduction due to variations in quality or quantity of work performed.

**Minimum Salary Test:** An employee must be paid a salary minimum that is \$47,476 per year (\$913 per week) effective December 1, 2016.

**Duties Test:** An employee must qualify as an executive, administrative, professional, or computer professional (as specifically defined by the FLSA).

### **Q. What is changing?**

A. The minimum salary threshold is the major change. The US Department of Labor released the final rule on May 18, 2016 that raises the minimum salary threshold to the 40th percentile of weekly earnings for full-time salaried workers. The new minimum salary threshold will be \$47,476 per year (\$913 per week), up from \$23,660 annually (\$455 per week). Employers have until December 1, 2016 to comply. Additionally, the new regulation establishes a mechanism for automatically updating the salary minimum every three years beginning January 1, 2020.

### **Q. Why is this change occurring?**

A. It is important to understand that it was not Morehead State University’s decision to make this change. The US Department of Labor made the change to the regulations in an effort to extend overtime protection to workers and “to help build real, lasting economic security for more hardworking Americans.” A change to the regulations has not been made since 2004.

**Q. When is the regulation effective?**

A. The federal government has set the effective date of the final rule for December 1, 2016. MSU's actual implementation date will be decided based on a variety of administrative factors. This is a complex administrative change requiring numerous systems changes, communications to those impacted, training for supervisors and employees, and a myriad of other things required to ensure compliance with the new regulations and make this a smooth transition for all involved.

**Q. Who is affected by this change?**

A. If you are currently classified as an exempt employee, you may be subject to the new minimum salary threshold. If you are currently classified as a nonexempt employee, you will not be affected. It is anticipated that approximately 200 MSU staff employees FLSA classifications will change from exempt to non-exempt.

**Q. Are part-time employees affected?**

A. Part-time employees will be affected if they are currently classified as exempt, but make less than the new salary threshold, \$47,476 annually (\$913 per week) while working part time.

**Q. How and when will impacted employees be notified?**

A. If your job is changing from exempt to non-exempt status, you will be notified at least 30 days prior to implementation. The implementation date for MSU is still under consideration.

**Q. What does this change mean for employees who are affected?**

A. Employees moving from exempt to non-exempt:

Must report all hours worked.

Must be paid for all hours worked and receive overtime compensation for hours worked in excess of 40 in a workweek.

Will switch to non-exempt payroll and be paid in arrears. This will result in a missed payroll; however, the University will provide a loan option to bridge the gap with payback over a series of payrolls.

It is important to note that this change in FLSA status is in no way a downgrade of any position, of professional status, or of the importance of your work.

MSU is simply required to abide by federal law and ensure that employees are paid according to the new FLSA regulations. As a non-exempt employee, you are paid for all of the hours you work and are eligible for overtime. MSU understands that this transition may be challenging in many aspects and will work to ensure the transition is as seamless as possible.

**Q. When is an employee entitled to overtime pay?**

A. Non-exempt employees earn overtime (time and a half) when they work more than forty (40) hours in a workweek. MSU's workweek begins at 12:01 a.m. on Sunday and ends at 12:00 midnight on the following Saturday.

If an employee works more than eight (8) hours in a day, they do not earn overtime. It is only when the employee works more than forty (40) hours in a workweek that they earn overtime. For example, if a staff employee works ten (10) hours on Monday, Tuesday, Wednesday and Thursday, but does not work on

Friday, they will not earn overtime. If this same employee reports to work on Friday and works for four (4) hours, they will earn four (4) hours of overtime.

**Q. Can I work overtime hours any time I want?**

A. No. Supervisors are required to approve any work for nonexempt employees that is in excess of their regular work schedule. Work on personal devices, e.g., smart phones, tablets, home computers, is prohibited for nonexempt employee outside the normal work schedule unless authorized by the supervisor. Nonexempt employees who engage in unauthorized overtime work may be subject to disciplinary actions.

**Q. What activities are considered “work?”**

A. The courts have held that work time under the FLSA includes all time spent performing job related activities which (a) genuinely benefit the employer, (b) which the employer “knows or has reason to believe” are being performed by an employee, and (c) which the employer does not prohibit the employee from performing. These can include activities performed during “off-the-clock” time, at the job site or elsewhere, whether “voluntary” or not.

**Q. What is “overtime?”**

A. The word overtime has a technical definition under the FLSA, and means all time actually worked over a “threshold.” The usual threshold is 40 hours per week.

**Q. What are the white collar exemptions to the FLSA?**

A. The FLSA’s white collar exemptions exclude certain executive, administrative, and professional employees from federal minimum wage and overtime requirements.

**Q. Are teaching faculty, instructors and adjuncts affected?**

A. Teachers are FLSA exempt, regardless of their annual/weekly salary, if their “primary duty is teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge.” MSU’s faculty, instructors and adjuncts who meet the “primary duty” requirement qualify as FLSA exempt under this “teaching exemption” and will not be affected by the changes. Non-teaching faculty, such as curators, university librarians, and research faculty may be impacted by these changes.

**Q. If I am currently a full-time, exempt employee with a 10 month appointment and am reclassified to nonexempt, will I continue to receive my salary over 12 months?**

A. No. You will be paid during the 10 month time period you worked.

**Q. Can I or my department opt out of FLSA changes if we want to handle things differently?**

A. No. These changes are federal law that will apply to employees across the United States. The University has and will continue to consult with administrators and supervisors on factors impacting MSU’s response to these regulatory changes. A plan and policy will be established to ensure the University’s response is consistent, non-discriminatory, sustainable, and legally compliant.

**Q. I am paid a salary and my job title is manager. Am I exempt from overtime pay?**

A. Job titles do not determine exempt status, and the fact that a white collar employee is paid on a salary basis does not alone provide sufficient ground to exempt that employee from the FLSA’s minimum wage



and overtime requirements. For an exemption to apply, an employee's specific job duties and salary must meet all of the applicable requirements provided in the DOL's regulations.

**Q. Can hours be flexed over a specific time period to avoid overtime?**

A. Hours can only be flexed during a workweek, not spread over multiple workweeks. The supervisor must communicate the flexible schedule to the employee in advance.

**Q. Will switching from exempt to non-exempt require me to change retirement plans?**

A. No. Retirement eligibility is based on the minimum requirements of your position, which will not change as a result of the FLSA revisions.

**Q. Is training available for supervisors regarding FLSA and time approving?**

A. Yes. Training will be provided to employees and supervisors once a final implementation plan is approved.